

Item SP04-21 Response Form

Title: Scheduling Accommodations for Jurors (adopt rule 858 of the California Rules of Court)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **only if modified**
- ☐ **Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Romunda Price,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 P.M Friday, August 20, 2004

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

<i>Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.</i>
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Title	Scheduling Accommodations for Jurors (adopt rule 858 of the California Rules of Court).
Summary	Proposed rule 858 would require a court to defer jury service one time for prospective jurors upon request and to make scheduling accommodation for peace officers, as required by Code of Civil Procedure section 219(b).
Source	Court Executives Advisory Committee
Staff	John A. Larson, 415-865-7589, john.larson@jud.ca.gov
Discussion	<p>California law currently provides that certain peace officers (most notably sheriffs, police officers, California Highway Patrol Officers among others) shall not be “selected for voir dire in civil or criminal matters” and that certain other peace officers (including the University of California and California State University police departments) shall not be “selected for voir dire in criminal matters.” (Code of Civil Procedure section 219(b).) Code of Civil Procedure section 219.5 requires the Judicial Council to adopt a rule to accommodate the special scheduling needs for jury service of corrections officers, parole, and probation officers. A copy of the statute is attached.</p> <p>The proponents of the law recognized that California policy is to no longer automatically exempt groups of people from jury service (so-called “categorical exemptions”). The law was drafted so that courts would accommodate peace officers’ schedules rather than granting them outright exemptions.</p> <p>This rule proposal by the Court Executives Advisory Committee (CEAC) is broader. It requires courts to give any prospective juror a one-time deferral of jury service upon request. This new rule would standardize the practice of offering any juror a one-time deferral of his or her jury service.</p> <p>The advisory committee has proposed the broadened rule after investigation showed that granting a deferral to prospective jurors upon request is current court practice. The deferred individuals generally honor the commitment to which they have agreed to appear during a specific week. Therefore, when courts allow prospective jurors to defer service there is greater predictability in the numbers of prospective jurors that actually appear for service. Many courts are also employing automated telephone and Web site technologies to allow prospective jurors to defer automatically. The advisory committee decided against including a possible provision in the proposed rule that would have established the length of deferral at up to six months, because</p>

some courts can only accommodate shorter durations for deferrals. In addition, the rule proposal does not include a possible provision requiring a check box on the courts' summonses to request a deferral, because many courts are moving to telephone and Web based technologies to manage deferral requests.

To address the statutory mandate for scheduling accommodations of peace officers (as required by Code of Civil Procedure section 219.5) the rule proposal requires courts to make further accommodations for a peace officer, as defined by section 830.5 of the Penal Code, when a peace officer states that further scheduling accommodation is necessary. The rule would require trial courts to establish procedures for the form of and timing required for receiving the peace officers' requests for further scheduling accommodations.

The advisory committee specifically requests comment on whether this rule would be burdensome for smaller courts, which have less frequent trial calendars.

Attachments

Rule 858 of the California Rules of Court would be adopted, effective January 1, 2005, to read:

Rule 858. Scheduling accommodations for jurors

(a) **[Accommodations]** A trial court must accommodate a prospective juror's schedule by granting a prospective juror's request for a one-time deferral of jury service.

(b) **[Further scheduling accommodations for peace officers]** If a prospective juror is a peace officer, as defined by Section 830.5 of the Penal Code, the trial court must make further scheduling accommodations upon application of the peace officer setting forth the reason a further scheduling accommodation is necessary.

(c) **[Procedures for application]** The trial courts must establish procedures for the form and timing of the application. If the request for deferral in (a) is made under penalty of perjury in writing or through the court's established electronic means, the jury commissioner may not require the prospective juror to appear at court to make the request in person.

(d) **[Other grounds not excluded]** This rule is not intended to exclude a prospective juror from requesting an excuse from jury service on other grounds, including hardship.

California Code of Civil Procedure section 219.5

- 219.5.** The Judicial Council shall adopt a rule of court, on or before January 1, 2005, requiring the trial courts to establish procedures for jury service that gives peace officers, as defined by Section 830.5 of the Penal Code, scheduling accommodations when necessary.